IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 18713 of 2006(C)

AGAINST THE ORDER IN IA.2273/2005 IN
OS.497/2002 of MUNSIFF COURT,KAYAMKULAM

.....

PETITIONER:

K.K.DEVARAJAN,
KARUNALAYAM, CHIRAKKADAVOM MURI,
KAYAMKULAM VILLAGE.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENT:

KAYAMKULAM MUNICIPALITY, REPRESENTED
BY ITS SECRETARY.

BY ADV. SRI.R.RAYA SHENOY
SRI.R.PRASANTH KUMAR
SRI.K.G.RAJAPPAN NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 18713 OF 2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : A TRUE COPY OF THE PETITION FILED BY THE PETITIONER FOR THE APPOINTMENT OF THE COMMISSIONER.

EXT.P2 : TRUE COPY OF THE REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER.

EXT.P3 : TRUE COPY OF THE PETITION FILED BY THE RESPONDENT AS IA NO.2273/05.

EXT.P4 : TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER TO THE P3 APPLICATION.

EXT.P5 : TRUE COPY OF THE ORDER DT.16.02.06 IN IA NO.2273 OF 2005.

/TRUE COPY/

PA TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 18713 OF 2006

Dated this the 17th day of August, 2007

JUDGMENT

Mr.Raya Shenoy, counsel for the Municipality seeks time to file a counter affidavit. The strenuous submissions of Mr.P.Sreekumar notwithstanding, I am unable to agree that Ext.P5 is vitiated to the extent of justifying interference by this Court under the supervisory jurisdiction under Article 227. But, at the same time, I find force in the submission of Mr.Sreekumar that it was not proper on the part of the Munsiff in allowing the appointment of another advocate to conduct the inspection, since the commissioner appointed earlier has filed a detailed report which is yet to be set aside by the court. Thus, even as I approve Ext.P5, I modify the same by directing the learned Munsiff to appoint the very same commissioner who has already filed a report.

PIUS C. KURIAKOSE, JUDGE

btt